

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

IN RE GENETICALLY MODIFIED)	4:06 MD 1811 CDP
RICE LITIGATION)	ALL CASES

**JOINT STATEMENT OF LEAD COUNSEL REGARDING
CASE MANAGEMENT ORDER NO. 9**

Lead counsel for Plaintiffs and the Bayer Defendants have met and conferred in good faith to formulate a Scheduling Order and Trial Plan for consideration by this Court. Counsel have agreed that, barring reversal or modification of the Court's August 14, 2008 Memorandum and Order denying Plaintiffs' Motion for Class Certification (D.I. 781), this litigation should proceed with "test" or "bellwether" trials of Producer Cases involving a limited number of plaintiffs in each trial. The parties have further agreed that such trials should commence in November 2009. Although the parties have not reached agreement on a Case Management Order, many of the proposed dates are close to one another. Lead Counsel have prepared a chart reflecting dates proposed by each side (attached as Exhibit A).

Lead Counsel, despite good faith negotiations, have not been able to reach agreement on the basic elements of a trial plan or procedure for discovery in all pending cases. Each side proposes a plan with substantially different core elements, such that the component parts are not directly comparable and are not interchangeable. Thus, unlike with prior joint reports, counsel cannot set out competing terms for the Court to choose between and still maintain the basic integrity of the respective trial plans. As a result, Lead Counsel for each side will present separate plans for the Court's consideration.

Respectfully submitted,

/s/ Terry Lueckenhoff

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CERTIFICATE OF SERVICE

This is to certify that I have this 2nd day of October, 2008, electronically filed a copy of the foregoing with the Clerk of Court to be served by operation of the Court's electronic filing system upon the parties of record.

/s/ Terry R. Lueckenhoff

IN RE GENTICALLY MODIFIED RICE LITIGATION
COMPARISON OF PROPOSED SCHEDULING PLANS FOR PRODUCER CLAIMS

Defendants' Proposed Scheduling Plan		Producer Plaintiffs' Proposed Scheduling Plan	
10/23/2008	Producer Plaintiff Notification of Decision to Waive <i>Lexecon</i>		
		11/1/2008	Master Complaint plaintiffs notified that their trials will begin in November, 2009 ("Master Complaint trials.")
		11/7/2008	Amendment to Master Complaint filed
11/13/2008	Producer Plaintiffs Waiving <i>Lexecon</i> must Refile Action in this Court		
11/20/2008	Producer Plaintiff Fact Sheet (PFS) with Documents Due from all Producer Plaintiffs		
		11/28/2008	Producer Plaintiff Notification of Decision to Waive <i>Lexecon</i>
		12/8/2008	Defendants Objections to trial in this District, based on <i>Lexecon</i> , improper venue or otherwise, filed
12/11/2008	Initial Trial Pool Selections		
12/14/2008	Defendants Identify Deficiencies on PFS (received by 11/20/08)		
12/19/2008	Defendants' Discovery served on Initial Trial Pool Plaintiffs		
12/31/2008	Initial Trial Pool Plaintiffs to File any Amendment to their Complaint		
		1/9/2009	Selection of Additional Plaintiffs for Case-Specific Discovery from cases to be Tried in this District
		1/9/2009	Selection of Additional Plaintiffs for Case-Specific Discovery from Cases to be Remanded
1/30/2009	Defendants' to Answer initial Trial Pool Plaintiffs' Complaints		
2/5/2009	Trial Pool Plaintiffs' Discovery Responses due		
2/12/2009	File Scheduling and Trial Plan for Other Producer Cases		
2/19/2009	Producer Plaintiffs Must Cure Deficiencies in PFS		
2/26/2009	Stay of Discovery on Other Producer Plaintiffs Lifted		
		2/29/2009	PFS with Documents Due from Plaintiffs Selected for Case-Specific Discovery from Cases to be Tried in this District.
		2/29/2009	PFS with Documents Due from Plaintiffs Selected for Case-Specific Discovery from Cases to be Remanded
3/12/2009	Fact Discovery from Initial Trial Pool Plaintiffs Completed		
3/12/2009	Plaintiffs' Initial Trial Pool Expert Disclosures Served		
		3/13/2009	Amended Pleadings Due for Plaintiffs selected for Additional Discovery in Cases to be Tried in this District

IN RE GENTICALLY MODIFIED RICE LITIGATION
COMPARISON OF PROPOSED SCHEDULING PLANS FOR PRODUCER CLAIMS

Defendants' Proposed Scheduling Plan		Producer Plaintiffs' Proposed Scheduling Plan	
		3/13/2209	Amended Pleadings Due for Plaintiffs selected for Additional Discovery in Cases to be Remanded
		4/3/2009	Fact Discovery Completed for Master Complaint trials
		4/3/2009	Plaintiffs' Expert Disclosures Served for Master Complaint trials
		4/3/2009	Case-Specific Written Discovery and Depositions of Plaintiffs Selected for for Case-Specific Discovery in Cases to be Tried in this District begins
		4/3/2009	Case-Specific Written Discovery and Depositions of Plaintiffs Selected for Case-Specific Discovery in Cases to be Remanded begins
4/9/2009	Depositions of Plaintiffs' Initial Trial Pool Experts Completed		
		5/1/2009	Plaintiffs' Experts' Depositions for Master Complaint trials Completed
5/7/2009	Defendants' Initial Trial Pool Experts Disclosures Served		
		5/29/2009	Defendants' Expert Disclosures Served for Master Complaint trials
6/4/2009	Depositions of Defendants' Initial Trial Pool Experts Completed		
6/25/2009	Plaintiffs' Initial Trial Pool Rebuttal Expert Disclosures Served		
		6/26/2009	Defendants' Experts' Depositions for Master Complaint trials Completed
		7/3/2009	Scheduling Order for Plaintiffs Selected for Additional Discovery in Cases to be Tried in this District leading to the trials of these cases in February, 2010
		7/3/2009	Selection of Next Group of Plaintiffs for Additional Discovery and scheduling of discovery and pre-trial deadlines for those cases.
7/23/2009	Depositions of Plaintiffs' Initial Trial Pool Rebuttal Experts Completed		
7/23/2009	All Initial Trial Pool Discovery Closed		
		7/24/2009	Plaintiffs' Rebuttal Expert Disclosures Served for Master Complaint trials
8/1/2009	Selection of Two Plaintiffs from Each State for Initial Trials		
8/13/2009	Dispositive and <i>Daubert</i> Motions on Initial Trial Pool Cases Filed		

IN RE GENTICALLY MODIFIED RICE LITIGATION
COMPARISON OF PROPOSED SCHEDULING PLANS FOR PRODUCER CLAIMS

Defendants' Proposed Scheduling Plan		Producer Plaintiffs' Proposed Scheduling Plan	
		8/14/2009	Plaintiffs' Rebuttal Experts' Depositions Completed for Master Complaint trials
		8/14/2009	All Discovery Completed for Master Complaint trials and all discovery except case-specific discovery completed for all producer cases
		8/14/2009	Suggestions of Remand may be Filed
		8/21/2009	Dispositive and <i>Daubert</i> Motions Filed for Master Complaint trials
9/10/2009	Responses to Dispositive and <i>Daubert</i> Motions on Initial Trial Pool Cases Filed		
		9/18/2009	Responses to Dispositive and <i>Daubert</i> Motions Filed for Master Complaint trials
10/1/2009	Replies to Dispositive and <i>Daubert</i> Motions on Initial Trial Pool Cases Filed		
		10/2/2009	Replies to Dispositive and <i>Daubert</i> Motions Filed for Master Complaint trials
11/2009	Initial Trials Begin	11/9/2009	Master Complaint Trials begin
11/19/2009	Fact Discovery on all Cases Completed		
		2/20/2010	Trials of First Group of Plaintiffs selected for Additional Discovery from Cases to be Tried in this District begin